IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 378 of 2001
(Old No. 1724 of 2000)

Smt. Suman Lata and anothers ….Applicants

Versus

State of Uttar Pradesh &
Anothers ….Opposite Party

Sri Alok Singh learned Senior Counsel appears on behalf of applicants
Sri N.C. Gupta appears on behalf of opposite party.

Hon'ble B.C. Kandpal, J.

The applicants have filed this application/petition under Section 482 Cr.P.C. for quashing the chargesheet dated 12.07.1999 filed in Case Crime No. 166 of 1999 under Sections 109/34, 306 I.P.C. Police Station Mussoorie, District Dehradun.

The facts giving rise to this petition are that one Ravindra Kumar husband of the applicant no. 1 Smt. Suman Lata had committed suicide on 10.06.1998 abut which an information was sent to the police station Mussoorie District Dehradun and G.D. entry was recorded on the same day. The police after completing the investigation submitted a Final Report in the matter on 18.06.1998.

After the lapse of about one year i.e. on 28.04.1999, one Prakash Chandra respondent no. 3 father of Ravindra Kumar deceased moved an application under Section 155 (3) of the Cr.P.C. before the court of C.J.M. Dehradun stating therein that his son Ravindra Kumar was married to Smt. Suman Lata in the year 1991 and from the wed-lock of the deceased Ravindra Kumar and his wife Smt. Suman Lata a son was born. It has also been stated that Smt. Suman Lata used to quarrel with Ravindra Kumar on one ground or the other. Thereafter, Smt.

Suman Lata kept her parents and brothers with her and the deceased Ravindra Kumar had to arrange the bread and butter for all these persons in the house. It has also been mentioned in the application that Smt. Suman Lata wanted to grab the property of Ravindra Kumar. On account of all these harassment and cruelty committed by Smt. Suman Lata, Ravindra Kumar committed suicide on 10.06.1998 in Hotel Ratan at Mussoorie.

Learned C.J.M. Dehradun on the aforesaid application passed an order on 26.05.1999 that the report be lodged against Smt. Suman Lata and the matter be investigated.

The police, thereafter investigated the matter again and submitted the chargesheet against the applicant before the court on 12.07.1999.

The petitioner has filed this petition for quashing the aforesaid chargesheet by way of the petition under Section 482 Cr.P.C.

Prakash Chandra who had filed application under Section 156 (3) Cr.P.C. had filed the counter affidavit before this Court, denying the averments made in the application under Section 482 Cr.P.C.

Heard learned counsel for the parties and perused the record.

Learned counsel for the applicant has submitted that on the basis of material on record as well as facts and circumstances of the case, it was the deceased who alone and none-else is responsible for his death. It has also been submitted before me that the case under Section 306 I.P.C. is not made out as the ingredients of abetments are not attracted in this matter.

Perusal of the First Information Report clearly reveals that there was tensed relations between the deceased and the petitioner and as per the application filed by the opposite party no. 3, the deceased Ravindra Kumar committed suicide in Ratan Hotel at Mussoorie on 10.06.1998. It is important to mention here that the application under Section 156 (3) Cr.P.C. has been filed approximately after 10 months of the occurrence. Therefore, the delay in making the application by the opposite party no. 3 plays an important role on account of which the prosecution story can be disbelieved.

It has been mentioned in the application that the deceased left the suicide note and specifically mentioned therein that on account of harassment and cruelty being committed upon him by his wife, he was committing suicide.

I have to consider in the instant case as to whether the case under Section 306 I.P.C. at this stage is made out or not and for this purpose, a look on the provisions of Section 107 I.P.C. would be important.

Section 107 I.P.C. reads as under:-

> *"Section 107 I.P.C. defines abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing."*

Before I advert further, at this stage, I may notice a few decisions of the Apex Court, relevant for the purpose of disposal of this case, the same is quoted below:-

*"In **Swamy Prahaladdas Vs. State of M.P. 1999 Supp (3) 438: 1995 SCC (Cri) 943** the appellant was charged for an offence under Section 306 I.P.C. on the ground that the appellant during the quarrel is said to have remarked to the deceased "to go and die". This Court was of the view that mere words uttered by the accused to the deceased "to go and die" were not even prima facie enough to instigate the deceased to commit suicide.*

*In **Mahendra Singh Vs. State of M.P. 1995 Supp(3) SCC 731: 1995 SCC (Cri) 1157** the appellant was charged for an offence under Section 306 I.P.C. basically based upon the dying declaration of the deceased, which reads as under:*

> *"My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."*

This Court, considering the definition of "abetment" under Section 107 I.P.C., found that the charge and conviction of the appellant for an offence under Section 306 is not sustainable merely on the allegation of harassment of the deceased. This Court further held that neither of the ingredients of abetment are attracted on the statement of the deceased.

*In **Ramesh Kumar Vs. State of Chattisgarh (2001) 9 SCC 618** the Apex Court was considering the charge*

framed and the conviction for an offence under Section 306 I.P.C. on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set herself on fire. Acquitting the accused, the Court said:

> *"A word uttered in a fit of anger or emotion without intending the consequence to actually follow cannot be said to be instigation. If he hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty.*

Keeping in view the aforesaid decisions passed by the Apex Court, I am of the view that ingredients of abetment are totally absent in the instant case for bringing the offence within the ambit under Section 306 I.P.C.

The petitioners have been charged with having abated commission of suicide by Ravindra Kumar husband of the applicant no. 1 and the prosecution story was that there were strained relations between the deceased and his wife. The deceased also left a suicide note which showed his disturbed state of mind but otherwise he blamed the applicant no. 1 for

the suicide. It cannot be said that the suicide committed by the deceased was the direct result of the strained relations, which had been there between the deceased (husband) and applicant no. 1 (wife).

The word “instigate” denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mean rea, therefore, is the necessary concomitant of instigation. Suicide committed by the deceased Ravindra Kumar is not the result of the quarrel or strained relations between the applicant no. 1 and the deceased. The suicide committed by the Ravindra Kumar would itself clearly points out that it is not a direct result of humiliations, strained relations or quarrel between the petitioner no. 1 and the deceased.

The plain reading of the application filed by respondent no. 3 before the court of C.J.M. Dehradun would clearly show that the deceased Ravindra Kumar was in great stress and depressed. Viewed from the aforesaid circumstances independently, I am clearly of the opinion that the ingredients of abetment are totally absent in the instant case for an offence under Section 306 I.P.C. Taking the totally of the materials on record as well as facts and circumstances of the case into consideration, it will lead to the irresistible conclusion that it is the deceased who alone, and none else, is responsible for his death.

In the result the petitioner under Section 482 Cr.P.C. succeeds the chargesheet dated 12.07.1999 in Case Crime No. 166 of 1999 under Sections 109/34, 306 I.P.C. Police Station Mussoorie, District Dehradun under challenge is hereby quashed.

July 31st 2004 **(B.C. Kandpal, J.)**
ASWAL